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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Note verbale dated 29 January 1996 from the Permanent Mission of Iraq to the United Nations Office at Geneva addressed to the Centre for Human Rights

The Permanent Mission of the Republic of Iraq to the United Nations Office in Geneva presents its compliments to the Centre for Human Rights and has the honour to enclose herewith the reply of the competent Iraqi authorities to the interim report of Mr. Max van der Stoel, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq (A/50/734).

The Permanent Mission of Iraq would be grateful if the Centre for Human Rights could have this reply circulated, as a document of the fifty-second session of the Commission on Human Rights, under item 10 of the provisional agenda.

Annex

[Original: Arabic]

REPORT OF THE GOVERNMENT OF THE REPUBLIC OF IRAQ SUBMITTED TO THE COMMISSION ON HUMAN RIGHTS AT ITS FIFTY-SECOND SESSION IN REPLY TO THE REPORT OF THE SPECIAL RAPPORTEUR CONTAINED IN DOCUMENT A/50/734

I. INTRODUCTION

1. The Government of the Republic of Iraq wishes to begin its reply to Van der Stoel's allegations submitted to the Third Committee of the General Assembly at its fiftieth session, as contained in document A/50/734, by reaffirming what it has already stated on numerous previous occasions, namely that Van der Stoel acts without any regard for the credibility that must be maintained, particularly in connection with the procedures and rules of conduct emphasized in General Assembly resolution 47/131 of 1993 entitled "Strengthening of United Nations action in the field of human rights through the promotion of international cooperation and the importance of non-selectivity, impartiality and objectivity".

2. As is evident from the allegations and accusations that he has been in the habit of reiterating since the beginning of his mandate, he relies on information and fallacies provided by bodies or individuals hostile to Iraq or, alternatively, he dispatches delegations on special missions to places that are well known for their hostility to Iraq and their hosting of the so-called "Iraqi opposition" in order to obtain totally unfounded and unrealistic allegations and accusations so that they can be published as United Nations documents. In our view, the purpose of this course of conduct is to achieve political aims that are fully consistent with the campaign that has been launched, under the pretext of the protection of human rights, by States and bodies that are well known for their hostility to Iraq.

3. While replying to those allegations, the Government of Iraq wishes to draw attention to its previous reports in this connection, the last of which (A/50/471), emphasized that the question of human rights in Iraq can under no circumstances be viewed in isolation from the inhuman effects that the ongoing economic embargo has had on those rights.

II. REVOLUTION COMMAND COUNCIL DECREES Nos. 61 AND 64

4. Van der Stoel referred to Amnesty Decrees Nos. 61 and 64 promulgated by the Revolution Command Council and claimed to have reached the conclusion that the said decrees "demonstrate considerable shortcomings in terms of their provisions and in terms of the general context of their promulgation". He totally disregarded the humanitarian, social and educative aspects of those two decrees, thereby demonstrating bad faith and politically motivated prejudice. Such an analytical approach that takes into consideration particular aspects and deliberately disregards others lacks the requisite analytical objectivity in so far as it expresses a subjective and selective standpoint. Consequently, no reliance can be placed on the conclusions that he reached.

5. In paragraph 11 of the report, he alleges that the provisions of Decree No. 61 apply only in cases in which the relatives of prisoners undertake to ensure their good conduct. He also alleges that paragraph VI of the Decree stipulates that the prisoner or detainee must have obtained an understanding of the revolutionary course of action, while paragraph VIII, subparagraph 3, makes exemption from applicable amputation decrees conditional on repentance.

6. In this connection, we wish to make it clear that paragraph VI of the Decree does not confer any privilege on persons who have obtained an understanding of the revolutionary course of action. All the persons covered by the provisions of this paragraph were released, without any privilege being conferred on any convicted person, since all the persons covered were obliged to attend religious courses in their respective confessions under the supervision of the Ministry of Religious Endowments. All the persons covered by the provisions of this paragraph attended the courses and passed the subsequent test with a success rate of 100 per cent, without any discrimination or arbitrariness. Paragraph VIII, subparagraph 3, in no way makes the person's repentance a condition.

7. With regard to his allegation that the Decree stipulates that the relatives of imprisoned persons must undertake to ensure their good conduct, we wish to point out that this paragraph refers to detainees and not prisoners. These detainees are juveniles under 18 years of age who, under the terms of the Convention on the Rights of the Child, are regarded as children. According to that Convention, children must enjoy special care and protection and their best interests must be considered in all proceedings concerning them, regardless of whether such proceedings are conducted by public or private social welfare institutions, the courts or other bodies. The importance of this paragraph lies in the fact that the guardians of children are placed in a position of responsibility and are urged to play their role by helping to rectify and guide the conduct of juveniles. The social and educative importance of this is evident and it is fully consistent with the provisions of article 5 of the Convention, which refers to the responsibilities, rights and obligations of parents to provide their children with appropriate guidance and counselling, as well as article 9 of the Convention under which States parties undertake not to separate a child from his or her parents against their will.

8. In paragraph 12 of the report, he alleges that "large numbers of persons apparently addressed by the decrees would not in fact enjoy any benefit" since the decrees apply only to persons who have been convicted or sentenced and not to the large numbers of detained persons against whom sentences have not officially been handed down.

9. First of all, the number of such detainees is not as large as the Special Rapporteur seems to imagine. Moreover, since the statutory judicial examination of those detainees has not been completed, they cannot be referred to the courts for judgement. Accordingly, it is only natural that the

provisions of those two decrees do not apply to them. Nevertheless, paragraph II of Decree No. 64 calls for the halting of the legal measures taken against the persons covered by its provisions and this applies to all measures taken against detainees at the stages of examination and trial; these detainees have been released.

10. Under paragraph III of this Decree, no legal measures can be taken against perpetrators of political offences who had not been detained prior to the promulgation of the Decree. Although this provision has not had an immediately evident effect, it was implemented by the authorities concerned, who halted the proceedings taken against persons covered by the terms of that paragraph.

11. According to paragraph 13 of the report, another limiting aspect of Decree No. 64 is that it applies only to Iraqi citizens and excludes non-nationals.

12. In this connection, we wish to point out that the Decree in question forms part of a series of amnesty decrees that also apply to non-Iraqis and cover all offences, including those of a political nature, in accordance with recognized rules and principles of criminal law and jurisprudence. Other such decrees are Nos. 43, 60 and 69 of 1995 (see the annex to this reply).

13. In paragraph 14 of the report, Van der Stoel indicates that persons convicted of "espionage" are excluded from the scope of application of the decrees. In this connection, we wish to point out that article 8 of the implementing regulations for Decree No. 61 defines the crime of espionage as covering the offences referred to in articles 158, 159 and 164, paragraph 1, of the Penal Code. These offences concern collusion and intelligence contacts with the enemy. In fact, all the persons convicted of offences prejudicial to the external and internal security of the State, with the exception of those convicted under the terms of the above-mentioned articles, were covered.

III. THE FATE OF KUWAITI MISSING PERSONS

14. Van der Stoel refers to the work of the Tripartite Committee and its Subcommittee in a section devoted to a discussion of the fate of the missing persons, as though his mandate qualified him to discuss this matter. In this connection, we wish to make it clear that the Tripartite Committee's work is governed by three principal factors, namely Security Council resolutions 686 (1991) and 687 (1991), the Geneva Conventions of 1949 and the International Committee of the Red Cross, which heads that Committee. In fact, all the prisoners and detainees, amounting to a total of 6,222 persons, who were in Iraq have been released and repatriated in collaboration with the International Committee of the Red Cross and the remains of all those who died have also been returned to their countries.

15. We can see no justification for Van der Stoel to involve himself in this aspect, since the Tripartite Committee's work has little to do with his work and his mandate and, by touching on this subject, he is mixing together the credentials and fields of competence of different international bodies.

We also wish to point out that the paragraph of the Commission on Human Rights and General Assembly resolutions urging the Government of Iraq to cooperate with the Tripartite Committee does not empower him to discuss this matter. At all events, the Government of Iraq has already explained its position concerning the question of Kuwaiti missing persons in document E/CN.4/1995/138, to which reference can be made for further details.

IV. EFFECTS OF THE ECONOMIC EMBARGO ON THE ECONOMIC, SOCIAL AND CULTURAL SITUATION IN IRAQ

16. The only field in which Van der Stoel spoke fairly realistically was the deteriorating economic, social and health situation in Iraq (paras. 35-40 of his report). In our view, he was obliged to refer to this aspect under mounting pressure from world public opinion and international organizations and missions that have visited Iraq. Hence, it would have been embarrassing not to mention it. However, he makes no reference to the content of the reports of those international organizations and missions and confines himself to verbal testimonies in a deliberate attempt to detract from the importance of this aspect. The Government of Iraq has submitted a paper under item 7 of the provisional agenda of the fifty-second session of the Commission on Human Rights, giving details of the effect of the economic embargo on the economic, social and cultural situation. Anyone wishing to ascertain the extent of the effect of the economic embargo on human rights in Iraq can refer to that paper.

V. THE RIGHT TO FOOD AND HEALTH

17. In our reply to Van der Stoel's report submitted to the fifty-first session of the Commission on Human Rights (E/CN.4/1995/56), we indicated that he would be speaking extensively in the present report on the Government of Iraq's alleged "shortcomings and responsibility for the sufferings of the Iraqi people" as a result of its rejection of Security Council resolution 986 (1995). Accordingly, we gave a brief account of Iraq's position in regard to that resolution in paragraphs 30 to 32 of our above-mentioned reply contained in document A/50/47.

18. In his present report (paras. 41-51), he reviews so-called "positive aspects" of resolution 986 (1995), supported by statistics from the Department of Humanitarian Affairs of the United Nations Secretariat, and we must therefore make some comments on that resolution.

<u>From the standpoint of its timing</u>

19. Resolution 986 (1995) was adopted at a time when Iraq was approaching the end of the stage defined in article 22 of Security Council resolution 687 (1991), which placed the Council under a corresponding obligation to lift the embargo on the export of goods of Iraqi origin after Iraq had met its obligations under the said Security Council resolution and other relevant resolutions. The effects of the embargo and the sufferings of the Iraqi people had already become evident through the mounting death toll, the scarcity of medicines and foodstuffs and the high prices, as shown by

studies undertaken by competent international organizations. World public opinion also began to favour alleviating or lifting the embargo, which prompted the United States of America to bring considerable pressure to bear with a view to halting the application of paragraph 22. Matters went to the extent of a threat to use the veto if the Security Council attempted to lift the embargo. Hence, the purpose of the adoption of resolution 986 (1995) at that time was to circumvent implementation of paragraph 22 of resolution 687 (1991).

The reasons for the rejection can be summarized as follows

20. The resolution imposes international trusteeship, as though Iraq were a country lacking sovereignty and legal capacity. It empowers the Secretary-General of the United Nations to supervise the running of Iraq's affairs. This means withdrawal of legitimacy and competence from the present Iraqi Government and empowerment of the Secretary-General to provide foodstuffs and medicines from the escrow account funded from the revenue from a limited quantity of Iraqi petroleum amounting to 1 billion dollars every three months. It also constitutes odious intervention in the lives of our citizens on the pretext of monitoring the efficiency and fairness of the distribution of the small quantities of food to be purchased under the terms of the resolution.

21. The resolution also contains a paragraph concerning the northern governorates of Iraq. In this connection, we wish to point out that the abnormal situation in the region of Iraqi Kurdistan is not attributable to any relevant Security Council resolutions. It was a unilateral decision imposed by some of the coalition States that exploited the flight of some Iraqi Kurds into Turkey during the 1991 disturbances and the subsequent imposition of the 32nd and 36th parallels, which are not based on a Security Council resolution but solely on an interpretation by those States, thereby creating this abnormal situation.

22. Security Council resolution 986 (1995) endows that abnormal situation with legitimacy by allocating a proportion of the revenue from the sale of the limited quantity of Iraqi petroleum. The resolution emphasizes the seriousness of the exceptional situation that it seeks to legitimize and perpetuate. Furthermore, the resolution makes provision for the deduction of $130 to 150 million for the northern governorates, thereby placing them in a favoured position in comparison with the other governorates, since each Kurdish governorate in the Autonomous Region would be allocated $50 million while the other Iraqi governorates would receive only $33 million each.

23. This deliberate discrimination serves the basic purpose that some of the coalition States are endeavouring to achieve in their attempts to fragment the national unity of the Iraqi people and jeopardize their territorial integrity.

24. The resolution imposes a standard form for Iraqi-Turkish relations, under the terms of Chapter VII of the Charter of the United Nations, by stipulating that the larger part of the Iraqi petroleum must be exported through Turkey, contrary to the right of the Iraqi Government to choose the outlet from which it wishes to export its petroleum. In this way, the resolution places an

additional restriction on Iraq's sovereignty and intervenes in bilateral relations between Iraq and Turkey, which Iraq had long sought to base on the principles of good-neighbourliness and common interests.

25. The resolution is not a temporary measure as stated in its preambular part. On the contrary, it is an alternative to the implementation of paragraph 22 of Security Council resolution 687 (1991) and can be used as a precedent for the imposition of future restrictions on the use of petroleum revenues after the application of paragraph 22 and the lifting of the embargo.

26. Van der Stoel, like the Western information media, focuses on the total amount of $1 billion every three months, disregarding the deductions that exceed half that amount, namely 30 per cent for compensation, 10 per cent to cover the expenses of the Special Commission and the salaries of the United Nations observers and $150 million for the Northern Region. It is clear, therefore, that the formal increase in the amount was accompanied by a large increase in the proportion of the deductions.

27. The resolution also ignores Iraq's other essential needs for commodities, spare parts for vehicles, machinery and means of transport, production requirements in the agricultural and industrial sectors, clothing and consumer goods, in addition to other essential requirements on which the health services depend (such as the supply of drinking water, sewerage, emergency requirements and electric power generators).

28. All the above undoubtedly proves that the purpose of the resolution was to divest Iraq and the Iraqi people of their sovereignty over their natural resources and, basically, to obtain control over Iraq's petroleum and petroleum products.

29. In this summary we have explained the reasons for the so-called failure to take advantage of Security Council resolution 986 (1995). We should now ask ourselves: How could the paltry amount remaining after all the deductions conceivably bring about a tangible improvement in the lives of more than 20 million Iraqi citizens?

VI. THE NATIONAL APPROACH TO DEMOCRACY AND HUMAN RIGHTS IN IRAQ

30. During the last 27 years since the revolution of 17 July 1968, the question of democracy and human rights has played an important role in the thinking and course of action of Iraq's leaders. This concern did not arise from a desire to imitate some forms of democracy; it stemmed rather from an intrinsic position derived from the cultural and religious heritage of the Iraqi people, all of whose groups and minorities have coexisted and intermingled in a fraternal manner from the beginning of time, thereby endowing this people with characteristics that must be taken into consideration and respected during any actual and objective application of the principles of democracy and human rights.

31. Within the framework of their priorities, the political leaders had to deal with an extremely important problem for which inadequate concern had been

shown during the pre-revolutionary era, namely the question of minorities who form part of the Iraqi people. In this way, for the first time in its modern history, Iraq laid down the foundations on which racial discrimination could be combated in the region of Iraqi Kurdistan on an imperative constitutional basis through recognition of the ethnic rights of the Kurdish people and the legitimate rights of all minorities within the framework of national unity. Article 5 (b) of the Iraqi Constitution stipulates that: "The Iraqi people consists of two principal ethnic groups: Arabs and Kurds. This Constitution recognizes the ethnic rights of the Kurdish people, as well as the legitimate rights of all minorities, within the framework of Iraqi unity". Article 8 (c) of the Constitution further stipulates that: "The region in which the majority of the population are Kurds shall enjoy autonomy in the manner determined by law". Revolution Command Council Decree No. 288 of 11 March 1970 subsequently laid down general guidelines for autonomy by stipulating that one of the Vice-Presidents of the Republic must be a Kurd, that civil servants in administrative units inhabited by a Kurdish majority must be Kurds or proficient in the Kurdish language, and that there must be no discrimination between Kurds and others in regard to access to public office, including important posts in the State such as ministerial portfolios, army commands and other positions, with due regard for the principle of competence.

32. Pursuant to these constitutional provisions, Act No. 33, known as the Kurdistan Regional Autonomy Act, was promulgated on 11 March 1974. This Act stipulated that the region of Kurdistan would enjoy autonomy and would be regarded as a single administrative unit endowed with corporate personality and enjoying autonomy within the framework of the legal, political and economic unity of the Republic of Iraq.

33. With regard to cultural rights, the academic and information facilities that have been established to promote Kurdish culture include a university in the Autonomous Region and the Kurdish Cultural and Publishing House, which is run by the Ministry of Culture and Information and publishes a daily newspaper and a number of magazines that are seeking to develop Kurdish culture.

34. The abnormal situation in northern Iraq resulting from interference by some Western coalition States, led by the United States of America, in that region's affairs is preventing the Kurdish people living in the Northern Region from enjoying the rights guaranteed by the Constitution and the Iraqi legislation in force.

35. With regard to the Turkomans, Revolution Command Council Decree No. 89 of 24 November 1970 stipulated that the Turkoman language would be taught at the primary educational level and the requisite teaching aids in the Turkoman language would be made available at all schools in which this language was taught. A directorate of Turkoman studies was also to be established at the Ministry of Education and Turkoman poets and writers were to be permitted to establish their own federation and were to be provided with assistance to enable them to print their works. A Directorate of Turkoman Culture was also to be established and the duration of the Turkoman programmes broadcast on public radio and television was to be increased.

36. Revolution Command Council Decree No. 251 of 20 February 1972 recognized the cultural rights of Syriac-speaking citizens (Assyrians, Chaldeans and members of the East Syrian Church). Syriac was to be the language of tuition at all primary schools in which the majority of pupils spoke that language in addition to Arabic. Syriac was also to be taught at intermediate and secondary schools in which the majority of students spoke that language in addition to Arabic. Special programmes in Syriac were to be broadcast on public radio and television and three Syriac-language magazines were to be published. An Association of Syriac-Speaking Authors and Writers has also been established.

37. The overall provisions of these Iraqi legislative enactments in force, as well as the actual practices vis-à-vis minorities, show that Iraq is effectively observing the rights and limitations specified in the international instruments concerning the rights of minorities. The principal characteristics of the rights of minorities in Iraq consist in equal treatment and non-discrimination between citizens belonging to different ethnic, religious and linguistic communities. No group is favoured over another. The country's sovereignty, as well as its territorial unity and integrity, must be respected.

38. When the politically and economically independent nationalist outlook took root during the 1970s, the leadership began its endeavours to transform the aspiration towards democracy into tangible reality. In the first half of 1980, after H.E. President Saddam Hussein had assumed the post of President of the Republic of Iraq, the country witnessed its first democratic experiment consisting in the establishment of the National Council and the Legislative Council of the Autonomous Region of Iraqi Kurdistan and participation by officials from popular non-governmental organizations in the drafting of legislative decrees.

39. These measures constituted the first steps towards the application of democracy in Iraq and should have been crowned by the election of the President of the Republic in a popular referendum. However, the outbreak of the war which Iran imposed on Iraq and which lasted for eight years, as well as the circumstances that accompanied it, led to the postponement of this matter until after the end of that war and the return to normal conditions.

40. After the end of that war, Iraq began to prepare itself to enter the post-war era in a suitable manner by creating appropriate conditions for the achievement of the maximum degree of democracy and enjoyment of human rights. Iraq made considerable progress in that regard and that period witnessed the abrogation of many of the exceptional measures necessitated by the circumstances of the war. The Political Parties Act No. 30 of 1991 was promulgated and extensive discussions took place with a view to the promulgation of a legislative act concerning freedom of the press. A new Constitution for the country was drafted and discussed at all official and popular levels and was expected to be submitted to a referendum in 1990. However, the events in Kuwait and the war of aggression that was launched against Iraq on 17 January 1991 once again hindered those important achievements in the field of democracy and human rights.

41. Following the cessation of military operations and the subsequent disturbances, Iraq was faced with a series of measures that were imposed unilaterally by one or more States in flagrant violation of Iraq's right to self-determination, as illustrated by the following:

(a) The intervention by United States and allied forces in northern Iraq isolated three governorates (Dohuk, Arbil and Sulaimaniya) from central government authority, thereby violating Iraq's sovereignty and territorial integrity, which had been reaffirmed in all the relevant Security Council resolutions;

(b) The United States and its allies imposed an air exclusion zone, involving a ban on flights by Iraqi aircraft north of the 36th parallel and south of the 32nd parallel, without any legal justification or international resolution, thereby violating Iraq's sovereignty over its airspace;

(c) The United States launched missile attacks on the city of Baghdad on 17 January 1992 and 27 June 1993 without any justification, thereby engaging in acts of flagrant military aggression against Iraq;

(d) The economic embargo has been imposed on Iraq for more than five years in spite of its fulfilment of its obligations under the terms of the relevant Security Council resolutions. The continuation of these sanctions constitutes a violation of the Iraqi people's right to freely dispose of their natural resources as stipulated in common article 1 of the International Covenants on Human Rights and, in particular, paragraph 2 of that article, which stipulates that: "In no case may a people be deprived of its own means of subsistence". In this connection, we wish to refer to the study published by the Subcommission on Prevention of Discrimination and Protection of Minorities in document E/CN.4/Sub.2/1994/39, paragraphs 13 and 14 of which reaffirm the imperative legal nature of the text of article 1, paragraph 2, of the two Covenants.

42. These measures, together with the ongoing economic embargo, constitute a fait accompli that has forced Iraq to live in an undeclared state of emergency, as referred to in article 4 of the International Covenant on Civil and Political Rights. In 1993, in spite of these circumstances, H.E. the President of the Republic of Iraq once again raised the issue of the presidential referendum with the Iraqi leadership. However, the above-mentioned difficult circumstances, and particularly the abnormal situation in northern Iraq which was actually in a state of semi-occupation by some coalition forces, prompted the leadership to defer consideration of this matter until the embargo was lifted from Iraq and the situation in the Northern Region had returned to normal.

43. These difficult circumstances naturally have inhuman repercussions on various aspects of life and give rise to social situations that are alien to the real Iraqi society, which has always been characterized by security and stability. The grave danger to which the security of citizens and society was exposed induced the Iraqi legislature to adopt heavier penalties of a provisional nature to act as a deterrent and protect society's right to security, since it is not part of the Iraqi legislature's criminal policy to

adopt heavier penalties. A review of the draft Iraqi Penal Code, which hopefully will be promulgated after the circumstances have improved, clearly reveals the corrective and educative theory underlying that draft. This is the Iraqi legislature's real penal policy that would have been applied but for the exceptional circumstances that Iraq is experiencing.

44. In spite of these difficult circumstances, the political leadership in Iraq found that the higher national interest and the need to address fundamental issues necessitated a development of the democratic approach through a shift from revolutionary to constitutional legitimacy and promotion of the rule of law and human rights.

45. In this connection, attention should be drawn to the fact that the shift from revolutionary to constitutional legitimacy does not imply the absence of constitutional legitimacy and the rule of law, as some imagine and as Van der Stoel attempted to portray in his report; in fact, it means that the past era, with the circumstances that we have already described, necessitated the promulgation of laws and decrees reflecting the nature of that stage. The time has now come to review those laws and measures in a manner consistent with the new stage characterized by the consolidation and expansion of democratic practice.

46. In this field, Iraq has taken a series of national measures, including the promulgation of decrees commuting death sentences and granting comprehensive general amnesties to Iraqis and non-Iraqis on whom penalties were imposed for their commission of politically motivated offences, with a view to providing an opportunity for citizens who have sinned against their society to review and reform their conduct, and also to provide an opportunity for all citizens to participate in the process of democratization. These measures culminated in the constitutional amendment concerning the post of President of the Republic of Iraq, which stipulated that candidacies for this post must be submitted to a popular referendum in accordance with Revolution Command Council Decree No. 85 of 1995. The referendum was scheduled for 15 October 1995 and was monitored by hundreds of Arab and foreign journalists, correspondents of news agencies and international television stations and a large number of political personalities who confirmed the fairness of the referendum through their unrestricted visits to polling stations, where they were able to interview citizens. By an overwhelming majority, the Iraqi people freely and democratically expressed their desire to choose President Saddam Hussein as President of the Republic of Iraq for a seven-year term of office. It was regrettable that the Iraqi Kurds living in the Northern Region were unable to participate in this referendum and express their views because of the abnormal circumstances that this region is experiencing.

47. The Local People's Councils Act No. 25 of 1995 was promulgated with a view to ensuring wider participation by the masses in the running of public affairs. The National Council Act No. 26 of 1995 was promulgated with a view to regulating parliamentary life in Iraq in such a way as to ensure participation by the largest possible section of the people in political life in Iraq. It is hoped that legislative elections will be held in the first half of 1996.

48. The results of the referendum, by governorate, were as follows:

Results of the public referendum on the assumption by our President and Leader, Saddam Hussein, of the post of President of the Republic of Iraq, as announced on 16 October 1995

Governorate	Number of voters	Valid ballot slips	Invalid ballot slips	Yes	No	%
Neineva	885 757	885 694	63	885 665	29	100
Salahuddin	362 903	362 775	128	362 775	-	100
Al-Ta'mim	385 209	385 013	196	385 013	-	100
Diyala	528 955	528 731	224	528 623	108	99.98
Baghdad	2 487 274	2 482 865	4 409	2 480 402	2 463	99.89
Karbala	270 867	270 867	-	270 867	-	100
Al-Anbar	444 145	443 740	405	443 357	383	99
Najaf	335 637	335 568	69	335 568	-	100
Al-Qadisiya	278 876	278 876	-	278 876	-	100
Babil	489 989	489 850	139	489 800	50	99.9
Wasit	332 432	332 419	13	332 418	1	100
Misan	246 605	246 605	-	246 605	-	100
Al-Muthanna	161 048	161 005	43	161 005	-	100
Dhi Qar	477 555	477 555	-	477 555	-	100
Basra	670 308	670 189	119	670 171	18	100
Total	8 357 560	8 351 752	5 808	8 348 700	3 052	99.96

Number of persons entitled to vote: 8,402,321
Absentees (failed to attend polling stations): 44,761.

Conclusions

49. The conclusion drawn by Van der Stoel, in his analysis of Revolution Command Council Decrees Nos. 61 and 64, to the effect that they are both characterized by their highly conditional nature which reduces their potential value, is unsubstantiated. In paragraphs 4 to 13 we have given many examples of the Special Rapporteur's erroneous interpretation of those two decrees. In our opinion, it was a deliberate misinterpretation designed to divest those two decrees of their real content and portray them in such a way as to detract

from their importance. In actual fact, such selective and biased interpretation reflects the Special Rapporteur's prejudiced and hostile attitude towards Iraq.

50. With regard to the question of the Kuwaiti missing persons, as we have already explained in paragraphs 14 and 15, Iraq has fully implemented Security Council resolution 686 (1991), in accordance with which all the prisoners and detainees held in Iraq were released and repatriated in collaboration with the International Committee of the Red Cross. The remains of all those who died during that period were also returned to their country.

51. Through the Tripartite Committee and its subcommittee, Iraq has cooperated fully in the search for missing persons and has made sincere and diligent endeavours to put an end to the suffering of their families. In this connection, Iraq notified the International Committee of the Red Cross of its willingness to embark on the required course of action after taking the necessary technical measures. In fact, these endeavours made it possible to determine the fate of a considerable number of missing persons. Iraq is continuing to attend the periodic meetings of the Tripartite Committee and its subcommittee, the most recent of which was held at Geneva on 28 November 1995.

52. With regard to the right to food and health, Van der Stoel holds Iraq responsible for this, basing his argument on article 2 of the International Covenant on Economic, Social and Cultural Rights in a shameful attempt to distort the facts. In this regard, we wish to emphasize that paragraph 1 of the said article highlights three principal requirements that must be met in order to give effect to that right: political will on the part of the State, availability of resources and international cooperation. The Iraqi Government's political will to give effect to this right is clearly evident from the fact that it is doing its utmost to provide food and medicine for Iraqi citizens and foreign residents, as has been attested by many international organizations and missions. The ration card and the health book have played a decisive role in banishing the spectre of hunger and disease during the last five years. In this connection, we wish to refer to the letter dated 14 July 1995 and addressed to President Saddam Hussein in which the Executive Director of the United Nations Children's Fund (UNICEF) commended the national endeavours that the Government of Iraq was making, in spite of the difficulties prevailing in the country as a result of the embargo, in the campaigns to vaccinate and immunize children against diseases and epidemics. He also commended the concern and commitment that the Government of Iraq had shown during the mid-decade review of the progress made towards the child-specific goals set by UNICEF.

53. The letter also commended the system established by the Government, under which the provincial governors were empowered to supervise those campaigns in person in their respective governorates. This was regarded as one of the most original initiatives taken anywhere.

54. With regard to availability of resources, Van der Stoel is in the best position to know that Iraq has been deprived of the right to dispose of its natural resources owing to the imposition of the economic embargo. The ban on the export of Iraqi petroleum, which constitutes Iraq's principal means of subsistence, is tantamount to depriving the Iraqi people of their own means of

subsistence which, according to article 1, paragraph 2, of the two Covenants, is not permissible under any circumstances. That provision constitutes an imperative rule with which the international community, including the Security Council, must comply, since the wording "In no case may ..." is absolute and applies to all cases.

55. With regard to international cooperation, it is regrettable that the dominant position of the United States of America on the international stage, the policy of intimidation that it is pursuing and the continuation of the economic embargo that can no longer be justified now that Iraq has met its obligations under the relevant Security Council resolutions have greatly affected Iraq's external relations and also international assistance and cooperation, particularly in the economic, cultural, social and artistic fields.

56. Accordingly, we believe that the continued imposition of the economic embargo constitutes a deliberate attempt by some internationally dominant States to neutralize the Iraqi Government's will to fulfil its national and international obligations under the terms of the international conventions, particularly those concerned with human rights, to which it has acceded.

57. With regard to the national referendum, held on 15 October 1995 concerning the choice of H.E. President Saddam Hussein for the post of President of the Republic, we are certain that Van der Stoel does not welcome its results in spite of the fact that the nature of his mandate should prompt him to commend the referendum as a positive step towards the consolidation of constitutional legitimacy and national democratization.

58. The referendum was held in an atmosphere of freedom and democracy and was observed by hundreds of Arab and foreign journalists and correspondents of news agencies and international television networks, as already stated in paragraphs 30 to 47.

59. His conclusion, to the effect that the result of the referendum in no way reflects the real will of the people, as stipulated in article 21 of the Declaration and article 25 of the International Covenant on Civil and Political Rights, is a sign of desperation that expresses the Special Rapporteur's disappointment since the referendum that was held and the steps that will follow it, consisting in expansion of the people's councils and the legislative elections to the Iraqi National Assembly that will take place in the first half of 1996, embody the provisions of those two articles and consolidate the values that they contain in regard to the right of every individual to participate in the management of his country's affairs either directly or through persons of his own choosing. They are also a reaffirmation of the fact that the will of the people is the source of authority expressed in fair elections held on the basis of a secret ballot.

60. The least that can be said of Van der Stoel is that he lacks a spirit of professionalism and calm deliberation. He is well known for his impetuosity and his gruff and hostile comments. Otherwise, how can we explain his first periodic report, issued in September 1995, which he devoted to criticism of Decrees Nos. 61 and 64 by which prisoners were amnestied by the Revolution

Command Council, only one month after their promulgation and even before the promulgation of the instructions regulating the release of the persons covered by those decrees and the subsequent amnesty decrees covering non-Iraqis.

61. From the above, it is easy to reach the conclusion that Van der Stoel's attitude confirms what we have already said on more than one occasion, namely that he has adopted a hostile position towards Iraq not only from the standpoint of his professional conduct, in which he should rely on trustworthy sources and transmit verified information carefully and accurately, but also from the political standpoint, since he has become a party to the conspiracy that is being hatched against Iraq with a view to bringing pressure to bear on its political system, dividing its people and shattering their unity.

Appendix I

Decree No. 43 of 25 Dhu-1-Qa'adah 1415 A.H., corresponding to 25 April 1995

In accordance with the provisions of article 42, paragraph (a) of the Constitution,

The Revolution Command Council hereby decrees as follows:

I. Iraqi prisoners who have served twenty-five per cent (25%) of their sentences shall be exempted from the remaining periods of their sentences.

II. Iraqi detainees who have served twenty per cent (20%) of their sentences shall be exempted from the remaining periods of their sentences.

III. The provisions of this Decree shall not apply to persons who have been convicted of dishonourable offences or murder, nor shall they apply to repeat offenders.

IV. This Decree shall enter into force with effect from the date of its promulgation.

Saddam Hussein
Chairman of the Revolution
Command Council

Appendix II

Decree No. 60 of 9 Rabi I 1416 A.H., corresponding to 5 August 1995

In accordance with the provisions of article 57, paragraph (c), of the Constitution,

We hereby decree as follows:

I. The Egyptian prisoners and detainees convicted of offences involving assault, bribery, refusal to provide the authorities with information, insults directed against the symbols of the nation, the people and the country or the offences specified in the Residence of Foreigners Act No. 148 of 1987 shall be exempted from the remaining periods of their sentences and shall be released from prison immediately unless they have been convicted on other charges.

II. The legal proceedings instituted against Egyptians accused of the offences specified in paragraph I above shall be halted and such persons who are held in custody shall be released unless they are being held on other charges.

III. This Decree shall enter into force with effect from the date of its promulgation.

Saddam Hussein
President of the Republic

Appendix III

Decree No. 69 of Rabi II 1416 A.H., corresponding to 27 August 1995

Presidential Decree

In accordance with the provisions of article 57, paragraph (c), of the Constitution.

We hereby decree as follows:

I. The Egyptian prisoners and detainees who have been convicted of economic offences, acts of theft as defined in article 446 of the Penal Code or acts of attempted theft as defined in article 446, paragraph 31, of the Penal Code shall be released from prison immediately unless they have been convicted on other charges.

II. The legal proceedings instituted against Egyptians accused of the offences specified in paragraph I above shall be halted and such persons who are held in custody shall be released unless they are being held on other charges.

III. This Decree shall enter into force with effect from the date of its promulgation.

Saddam Hussein
President of the Republic